



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: OPR, MNR, MNSD, & FF

Introduction:

This hearing dealt with the landlord's application requesting an Order of Possession and a monetary claim due to the tenant's failure to pay rent. Although the tenant was served with notice of this hearing and application by registered mail, he failed to appear for the hearing. I proceeded with the hearing in the tenant's absence being satisfied that the tenant was served pursuant to sections 88 and 89 of the *Act*.

Issues to be Determined:

Is the landlord entitled to an Order of Possession and a monetary claim related to non-payment of rent?

Background and Evidence:

The tenancy began on March 1, 2007 for the monthly rent of \$850.00 and a security deposit of \$425.00 paid on March 9, 2007. There was one rent increase during the tenancy when the rent increased to \$881.00 a month.

The landlord submits that the tenant failed to pay rent for December 2008. The tenant was served with a 10 day Notice to End Tenancy on December 2, 2008. The landlord stated that they believe the tenant vacated the rental unit on approximately December 12th or 13th, 2008.

The landlord seeks a monetary claim for the outstanding rent from December 2008 and requests compensation for loss of rental income for January 2009 for the total sum of \$1,787.00.

The landlord stated that the rental unit was shown on a number occasions in December 2008 but they were unable to rent the unit for January 1, 2009.

Analysis:

I accept the landlord's evidence that the tenant failed to pay rent for December 2008 for the sum of \$881.00. I also accept that the tenant vacated the rental unit and that an Order of Possession is no longer necessary.

I accept the landlord's claim for unpaid rent and a late fee for December 2008 for the sum of \$906.00. The landlord has also requested that they be compensated for loss of rental revenue for January 2009 for the sum of \$881.00. However, the landlord did not provide any evidence of their attempt to mitigate their losses. The landlord was aware that the tenant had vacated the rental unit by December 13th or 13th, 2008 and are required to minimize their loss. Although the landlord indicated that the rental unit has been shown, it has not been rented to date. I find that the landlord should only be compensated for half the sum requested, as it is still possible to recover some of their loss if the suite is rented. The landlord can file a further application for any additional loss for the month of January 2009.

Therefore, I accept that the landlord has established a total monetary claim for the sum of \$1,396.50. From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$436.65 in partial satisfaction of this claim.

Conclusion:

The landlord's application for dispute resolution is granted. I grant the landlord a monetary Order for the sum of **\$959.85**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated January 13, 2009.

Dispute Resolution Officer